

City Clerk's Copy

# Agenda Item Form

CITY CLERK'S OFFICE  
Agenda Date: 6/02/04  
JUN 11 11

Districts Affected: 3

Dept. Head/Contact Information: Patrick T. Abeln, A. A.E. 780-4736

## Type of Agenda Item:

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Resolution            | <input type="checkbox"/> Staffing Table Changes   | <input type="checkbox"/> Board Appointments        |
| <input type="checkbox"/> Tax Installment Agreements       | <input type="checkbox"/> Tax Refunds              | <input type="checkbox"/> Donations                 |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer          | <input type="checkbox"/> Item Placed by Citizen    |
| <input type="checkbox"/> Application for Facility Use     | <input type="checkbox"/> Bldg. Permits/Inspection | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements            | <input type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application         |
| <input type="checkbox"/> Other _____                      |   |  |

## Funding Source:

- ☐ General Fund  
☐ Grant (duration of funds: \_\_\_\_\_ Months)  
☐ Other Source: N/A

## Legal:

- ☒ Legal Review Required      Attorney Assigned (please scroll down): Sylvia Firth      ☒ Approved      ☐ Denied

Timeline Priority:   ☐ High      ☒ Medium      ☐ Low      # of days: \_\_\_\_\_

## Why is this item necessary:

To authorize Lessor's Approval of Assignment

## Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

None

## Statutory or Citizen Concerns:

None

## Departmental Concerns:

None

BA

## Remarks:

This is an assignment of an existing Airport lease. There is no fiscal impact on the Airport enterprise fund or the City General Fund. This assignment will simply enable continuing operations of existing aviation business on Airport.

Item: Lessor's Approval of Assignment from W.J.N. Corporation (Assignor) to Sahara Air, LLC (Assignee)



## **El Paso International Airport**

TO: Mayor Joe Wardy  
Jim Martinez, CAO  
City Council Representatives

FROM: Patrick T. Abeln, A.A.E.  
Director of Aviation

DATE: May 27, 2004

SUBJECT: **LESSOR'S APPROVAL OF ASSIGNMENT  
GENERAL AVIATION GROUND LEASE FROM  
WJN CORPORATION TO SAHARA AIR, LLC**

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### **BACKGROUND:**

The City of El Paso entered into the above referenced lease agreement with WJN Corporation in June 1990 covering 52,128 square feet of land known as 7007 Boeing Dr. The same year, WJN built a hangar on the land and is now selling the improvements to Sahara Air, LLC. Sahara Air intends to sublease the entire hangar to the existing subtenant, ATI Jet, Inc., WJN's subtenant since 1997.

### **ANALYSIS:**

In order to finalize the sale, WJN has requested that the City approve an assignment of the underlying lease to Sahara. The initial 20-year term of this lease expires May 2010 and has 2-10 year options. Rental adjustments are due every 5 years. The next adjustment is due in June 2005, at which time the rentals will be adjusted based on the percentage increase of CPI, and will not be less than the preceding rent or greater than 10%. The present lease rate is 52,128 sq. ft. of ground space @ \$0.192/sq. ft. = \$10,008.58/annum

By this document, the City consents to the assignment provided that Robert E. Jones, owner of Sahara Air LLC, guarantees rental payment to the City and is fully liable for prompt and complete performance of any and all obligations under the terms of the lease.

### **RECOMMENDATION:**

The Department of Aviation recommends approval of this Lessor's Approval of Assignment which has been reviewed and approved by the City Attorney's office. This item has been placed on the City Council agenda of June 2, 2004 for your consideration.

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the Mayor be authorized to sign a Lessor's Approval of Assignment of the General Aviation Ground Lease Agreement from WJN Corporation to Sahara Air, LLC for the land described as Lots 12 and 13, Block 4, El Paso International Airport Tracts, Units 2, containing 52,128 square feet and municipally known as 7605 Boeing Dr.

ADOPTED THIS 2nd DAY OF JUNE, 2004.

CITY OF EL PASO:

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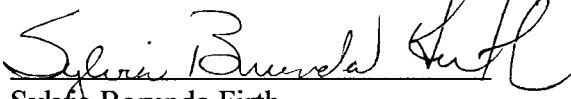
Joe Wardy  
Mayor

ATTEST:

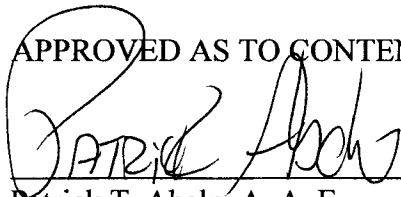
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Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
Sylvia Borunda Firth  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
Patrick T. Abeln, A. A. E.  
Director of Aviation

ORIGINATING DEPARTMENT: AIRPORT

STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

### LESSOR'S APPROVAL OF ASSIGNMENT

The City of El Paso ("Lessor") entered into a General Aviation Ground Lease Agreement dated June 1, 1990 ("Agreement"), between the Lessor and W.J.N. Corporation; a Texas Corporation ("Assignor") covering the following described leased premises:

Lot 12 and 13, Block 4, EPIA, Tracts Unit 2, El Paso County, Texas,  
municipally known and numbered as 7007 Boeing Dr., El Paso,  
Texas.

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Agreement from Assignor to Sahara Air, LLC, a Texas Limited Liability Company ("Assignee"), on the condition that from and after the effective date of the assignment of the Agreement to Assignee, and upon the further condition that Assignee agree to accept and abide by all the terms, covenants, and conditions of the Agreement.
2. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Agreement and expressly agrees to be bound by the indemnification provisions contained in the Agreement.
3. **GUARANTOR.** Robert E. Jones guarantees payment of rent to the Lessor and shall remain fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Lease.
4. **RATIFICATION OF AGREEMENT.** No provision of this consent alters or modifies any of the terms and conditions of the Agreement. Except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.
5. **ADDRESS FOR NOTICE.** Notices to Assignee shall be sufficient if sent by certified mail, postage prepaid, addressed to:

Sahara Air, LLC  
P.O. Box 221048  
El Paso, TX 79913  
ATTN: Mr. Robert E. Jones

6. **AUTHORIZED REPRESENTATIVE.** The person signing this Lessor's Approval of Assignment on behalf of the Assignee represents and warrants that he or she

has the authority legally to bind the Assignee to the provisions of this Lessor's Approval of Assignment.

7. **NON-WAIVER.** The Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.

The parties have executed this Lessor's Approval of Assignment hereto this

2nd day of June 2004.

**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Sylvia Borunda Firth  
Assistant City Attorney

**LESSOR: CITY OF EL PASO:**

\_\_\_\_\_  
Joe Wardy  
Mayor

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Patrick T. Abeln, A.A.E.  
Director of Aviation

**ATTEST:**

\_\_\_\_\_  
Printed Name: JAMES W SUTHERLAND JR

**ASSIGNOR: WJN CORPORATION**

\_\_\_\_\_  
Printed Name: William J. Nelson  
Title: Pres

**ATTEST:**

\_\_\_\_\_  
Printed Name: JAMES W SUTHERLAND JR

**ASSIGNEE: SAHARA AIR, LLC**

\_\_\_\_\_  
Printed Name: Lyle Beggs  
Title: Assistant Manager

(ACKNOWLEDGEMENTS ON FOLLOWING PAGE)

**ACKNOWLEDGEMENT**

THE STATE OF TEXAS    )  
                                      )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2004, by Joe Wardy as Mayor of the City of El Paso, Texas ("Lessor").

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

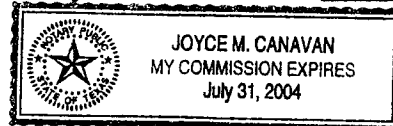
**ACKNOWLEDGEMENT**

THE STATE OF TEXAS    )  
                                      )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on this 11<sup>th</sup> day of MAY, 2004, by William I. Nelson as President of WIN Corp. ("Assignor").

Joyce M. Canavan  
Notary Public, State of TEXAS

My Commission Expires: 7-31-04



**ACKNOWLEDGEMENT**

THE STATE OF \_\_\_\_\_ )  
                                      )  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on this 11<sup>th</sup> day of May, 2004, by Lyle Byrum as Assistant mg of Sahara Air, LLC ("Assignee").

Tomasita T. Reyes  
Notary Public, State of Texas

My Commission Expires: 04/16/08

